

S
346.786
C48M
1981

MODEL MUNICIPAL ZONING ORDINANCE

PLEASE RETURN

STATE DOCUMENTS COLLECTION

MAY 10 1984

prepared by
✓ Ann Mulroney
Senior Planner

MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

Community Development Division

Published by
Montana Department of Community Affairs
Helena, Montana

David E. Wanzenried
Acting Director

Harold M. Price, Administrator
Community Development Division

January 1, 1981

MONTANA STATE LIBRARY
S 346.786 C48m 1981 c.1 Mulroney
Model municipal zoning ordinance /



3 0864 00047785 4

Errata for Model Municipal Zoning Ordinance

page 2, paragraph 3, lines 1 and 2:

"Title 11, Chapter 27, R.C.M. 1947" should read "Title 76, Chapter 2, Part 3, M.C.A."

page 4, Community Residential Facility:

"section 10-1103, R.C.M. 1947" should read "section 41-5-901, M.C.A."

page 22, 8. Parking and loading requirements:

"Section 3." should read "Section 4."

page 22, 9. Sign requirements:

"Section 4." should read "Section 5."

page 22, 10. Buffers and screening:

"Section 5." should read "Section 6."

page 27, 9. Signs:

"Article II, Section 4." should read "Article III, Section 5."

page 27, 10. Buffers and screening:

"Section 5." should read "Section 6."

page 29, 8. Parking and loading requirements:

"Section 3." should read "section 4."

page 29, 9. Signs:

"Section 4." should read "Section 5."

page 29, 10. Buffers and screening:

"Section 5." should read "Section 6."

page 31, 8. Parking:

"Section 3." should read "Section 4."

page 31, 9. Signs:

"Section 4." should read "Section 5."

page 31, 10. Screening and buffers:

"Section 5." should read "Section 6."

page 32, 8. Parking:

"Section 3." should read "Section 4."

page 32, 9. Signs:

"Section 4." should read "Section 5."

page 32, 10. Screening and buffers:

"Section 5." should read "Section 6."

page 35, 8. Parking
"Section 3." should read "Section 4."

page 35, 9. Signs
"Section 4." should read "Section 5."

page 35, 10. Screening and buffers:
"Section 5." should read "Section 6."

Zoning Ordinance

_____, Montana

Table of Contents

	<u>Page</u>
Preamble	<u>1</u>
 Article I Jurisdiction and Incorporation of Zoning Map	 1
Section 1. Title	1
Section 2. Territorial Jurisdiction	1
Section 3. Incorporation of Official Zoning Map	2
 Article II Definitions	 3
Section 1. Interpretation of Commonly Used Terms and Words	3
Section 2. Definitions	3
 Article III General Requirements	 9
Section 1. Lot Measurements	9
1. Front Yards	9
2. Side Yards	9
3. Rear Yards	9
Section 2. Non-Conforming Lots of Record, Uses, and Structures	9
1. Intent	9
2. Non-Conforming Lots of Record	10
3. Non-Conforming Uses of Land and Structures	10
4. Non-Conforming Structures	10
Section 3. Home Occupations	11
Section 4. Off-Street Parking and Loading	12
1. Purpose	12
2. Definition	12
3. When Required	12
4. Location	12
5. Dimensional Requirements	13
6. Access Requirements	13
7. Lighting	14
8. Maintenance	14
9. Number of Off-Street Parking Spaces Required	14
10. Loading Space Requirements	16

	<u>Page</u>
Section 5. Signs	16
1. Intent	16
2. Definitions	16
3. Signs Permitted In All Districts	17
4. Regulations for On-Site Signs Requiring a Permit	17
5. Regulations for Off-Site Signs Requiring a Permit	18
6. Regulations for Temporary Signs Requiring a Permit	18
Section 6. Screening and Buffering	19

Article IV Districts Established and District Regulations 19

Section 1. Districts Established	19
Section 2. Rules for Interpretation of District Boundaries	19
Section 3. Industrial District	20
1. Purpose	20
2. Permitted Principal Uses	20
3. Accessory Uses	21
4. Temporary Uses	21
5. Minimum Lot Size	21
6. Yard Requirements	21
7. Height Requirements	21
8. Parking and Loading Requirements	22
9. Sign Requirements	22
10. Buffers and Screening	22
11. Fencing	22
12. Lighting	22
13. Conditional Uses	22
Section 4. Central Business District	26
1. Purpose	26
2. Permitted Principal Uses	26
3. Accessory Uses	26
4. Temporary Uses	26
5. Minimum Lot Size	27
6. Height Requirement	27
7. Yard Requirements	27
8. Parking and Loading Requirements	27
9. Signs Permitted	27
10. Buffers and Screening	27
Section 5. Highway Business District	27
1. Purpose	27
2. Permitted Principal Uses	27
3. Accessory Uses	28
4. Temporary Uses	28
5. Minimum Lot Size	28

	<u>Page</u>
6. Height Requirement	28
7. Yard Requirements	28
8. Parking and Loading Requirements	29
9. Signs	29
10. Buffers and Screening	29
11. Fencing	29
12. Lighting	29
13. Conditional Uses	29
Section 6. Low Density Residential District	30
1. Purpose	30
2. Permitted Principal Uses	30
3. Accessory Uses	30
4. Temporary Uses	30
5. Minimum Lot Size	30
6. Height Requirement	31
7. Yard Requirements	31
8. Parking Requirements	31
9. Signs Permitted	31
10. Buffers and Screening	31
11. Lighting	31
12. Conditional Uses	31
Section 7. Medium Density Residential District	31
1. Purpose	31
2. Permitted Principal Uses	31
3. Accessory Uses	32
4. Temporary Uses	32
5. Minimum Lot Size	32
6. Height Requirement	32
7. Yard Requirements	32
8. Parking Requirements	32
9. Signs Permitted	32
10. Screening and Buffers	32
11. Lighting	32
12. Conditional Uses	32
Section 8. Rural Residential District	33
1. Purpose	33
2. Permitted Principal Uses	33
3. Accessory Uses	34
4. Temporary Uses	34
5. Minimum Lot Size	34
6. Height Requirement	34
7. Yard Requirements	34
8. Parking Requirements	35
9. Signs Permitted	35
10. Screening and Buffers	35
11. Lighting	35
12. Fencing	35
13. Conditional Uses	35
Section 9. Supplementary District Regulations	36
1. Purpose	36
2. Visibility at Intersections	36
3. Number of Principal Structures on a Lot	36
4. Exceptions to Height Regulations	36

	<u>Page</u>
5. Structures to Have Access	36
6. Parking and Storage of Major Recreational Equipment	37
7. Parking and Storage of Non-Licensed Vehicles	37
8. Fire Hazards	37
Section 10. Performance Policies	37
1. Purpose	37
2. Electromagnetic Interference	37
3. Obnoxious and Toxic Matter	37
4. Noise	37
5. Erosion	38
Section 11. Local Plan Approval Pursuant to the Subdivision and Platting Act	38
 Article V Administration and Enforcement	 38
 Section 1. Administrative Officer Designated	 38
Section 2. Duties of Administration Officer	38
Section 3. Zoning Permits Required for Buildings, Changes of Use, Signs, Home Occupations and Temporary Uses	38
Section 4. Application for Zoning Permit	39
Section 5. Certificates of Compliance for Non-Conforming Uses	39
Section 6. Expiration of Zoning Permit	39
Section 7. Construction to be as Provided for Under Terms of the Zoning Permit	40
Section 8. Zoning Commission Responsibilities	40
Section 9. Board of Adjustment Establishment & General Procedures	41
1. Board of Adjustment Established	41
2. Proceedings of the Board of Adjustment	41
3. Hearings; Appeal; Notice	41
4. Stay of Proceedings	42
Section 10. Board of Adjustment: Powers, Duties, and Procedures	42
1. Administrative Review	42
2. Variances; Conditions Governing Applications; Procedures	42
3. Board Has Powers of Administrative Official on Appeals	43
Section 11. Appeals From Board of Adjustment	44
Section 12. Duties of Administrative Official, Board of Adjustment, Governing Body and Courts on Matters of Appeal	44
Section 13. Schedule of Fees, Charges, and Expenses	45
Section 14. Amendments	45
1. Who May Initiate	45
2. Amendment Petition Applications and Procedures	45
3. Submission Requirements for Map Amendments	45
4. Public Hearings Required	46

	<u>Page</u>
Section 15. Provisions of Ordinance Declared to be Minimum Requirements	46
Section 16. Complaints Regarding Violations	46
Section 17. Penalties for Violation	46
Section 18. Separability Clause	47

Appendix

I. State Permits Required	48
---------------------------	----

Zoning Ordinance

_____, Montana

PREAMBLE

WHEREAS, Title 76, Chapter 2, Part 3, M.C.A., empowers the City to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, or general welfare of the City to enact such an ordinance, and

WHEREAS, the City Council, pursuant to the provisions of Section 76-2-307, M.C.A., has appointed a Zoning Commission to recommend the boundaries of the zoning districts and appropriate regulations to be enforced therein, and

WHEREAS, the Zoning Commission has divided the City and _____ mile extraterritorial zoning jurisdiction into districts and has prepared regulations pertaining to such districts, and

WHEREAS, the City Council, pursuant to the provisions of Title 76, Chapter 1, Part 6, M.C.A., has adopted a comprehensive plan for the jurisdictional area and the regulations have been prepared in accordance with the plan, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS, all requirements of Title 76, Part 3, M.C.A. with regard to the preparation of a zoning ordinance and subsequent action of the City Council have been met;

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF _____, MONTANA:

Article I Jurisdiction and Incorporation of Zoning Map

Section 1. Title

This ordinance shall be known as the "Zoning Ordinance of the City of _____, Montana," and may be referred to as the "Zoning Ordinance" and the map referred to herein is identified by the title "Official Zoning Map, _____, Montana," and may be known as the "Zoning Map."

Section 2. Territorial Jurisdiction

The zoning jurisdiction of the City of _____ shall include the land within the corporate limits of the City and within the _____ mile extraterritorial zoning jurisdiction boundaries established on the "Official Zoning Map, _____, Montana."

Section 3. Incorporation of Official Zoning Map

The "Official Zoning Map, _____, Montana," and all notations, references, and other information shown on the map are hereby incorporated by reference and made a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3 of the Zoning Ordinance of the City of _____, Montana," together with the date of the adoption of this ordinance.

If, in accordance with the provisions of this ordinance and Title 11, Chapter 27, R.C.M. 1947, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the City Council, the following (change) changes were made in the Official Zoning Map (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article V, Section 17.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted

(date of adoption of map being replaced) as part of the Zoning Ordinance of the City of _____, Montana." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Article II Definitions

Section 1. Interpretation of Commonly Used Terms and Words

For the purpose of this ordinance, the following words and terms have the meaning indicated herein:

Words used in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.

The words "used for" shall include the meaning "designed for."

The word "lot" shall include the words "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely directory.

Section 2. Definitions

Definitions for uses subject to general requirements under Article III will be included in the appropriate section.

Abutting: Having property or district lines in common; e.g., two lots are abutting if they have property lines in common.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate in area, extent, or purpose to the principal use or structure.

Agriculture: The use of land for farming, dairying, grazing, agriculture, horticulture, floriculture, silviculture and animal and poultry, husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided that the operation does not include commercial feedlots or commercial facilities for slaughtering, dressing, and packing of animal products.

Auto Wrecking Yard: Any open space of more than 200 square feet used for storing, dismantling, disassembling, salvaging or abandoning wrecked or otherwise immobilized motor vehicles.

Buffer: A strip of land established to protect one type of land use from another with which it is incompatible.

Building: A structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity.

Building Density: The average number of housing units per acre of land.

Building Height: The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or the ridge line of any other roof.

Commercial Feedlot: Any confined place or facility used for the feeding of animals for commercial purposes and not normally used for pasturage where more than 25 percent of the animals do not belong to the owner of the place or facility.

Community Residential Facility: Community residential facility means a group, foster, or other home specifically provided as a place of residence for developmentally disabled or handicapped persons who do not require nursing care or a district youth guidance home established pursuant to section 10-1103, R.C.M. 1947, or a halfway house operated in accordance with regulations of the Department of Health and Environmental Sciences for the rehabilitation of alcoholics or drug dependent persons or, a licensed adult foster family care home.

Conditional Use: A conditional use is a use permitted within a zoning district provided the additional conditions specified in the district regulations for the use are met.

Drive-In Restaurant or Refreshment Stand: Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in or on disposable plates or cups and where customers may be served in their motor vehicle, may serve themselves or may eat or drink the food, refreshments; or beverages on the premises.

Dwelling, Single-Family: A detached residential, dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, Two-Family: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling, Multiple-Family: A residential building designed for

occupancy by not less than three or more than six families.

Dwelling, Modular Unit: A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into structure on a permanent foundation and which complies with the Montana Building, Plumbing, Electrical, and Mechanical Construction Codes and the rules and regulations for modular housing of the Building Code Division of the Montana Department of Administration. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements which are to be incorporated into a structure at the site.

Dwelling, Mobile Home: A factory assembled transportable building unit built on a chassis and designed to be used as a dwelling with or without a permanent foundation. A travel trailer is not a mobile home.

Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Extractive Industries: Extractive industries include quarrying, the removal of sand, soil, stone, gravel, or clay, and mining operations.

Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Lot: For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:

- a) A single lot of record;
- b) A portion of a lot of record;
- c) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- d) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot Frontage: The side of a lot boundary which is nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

Lot of Record: A lot which is part of a subdivision recorded in the office of the County Clerk and Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types: The diagram (Figure 1) which follows on the next page illustrates terminology used in this ordinance with reference to corner lots, interior lots, reversed frontage lots and through lots:

In the diagram, A = corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lots lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A(1) in the diagram.

B = interior lot, defined as a lot other than a corner lot with only one frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

D = reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

Mobile Home Park: Any lot, tract or parcel of land used, maintained, or intended to be used, leased or rented for occupancy by two or more mobile homes together with accessory structures provided in connection therewith. This definition shall not include trailer sales lots on which unoccupied mobile homes are parked for the purpose of inspection and sales.

Service Station: Buildings and premises where the primary function is to dispense at retail gasoline, oil, grease, batteries, tires, and automobile accessories.

A service station is not a repair garage nor a body shop. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.



Figure 1
Lot Types

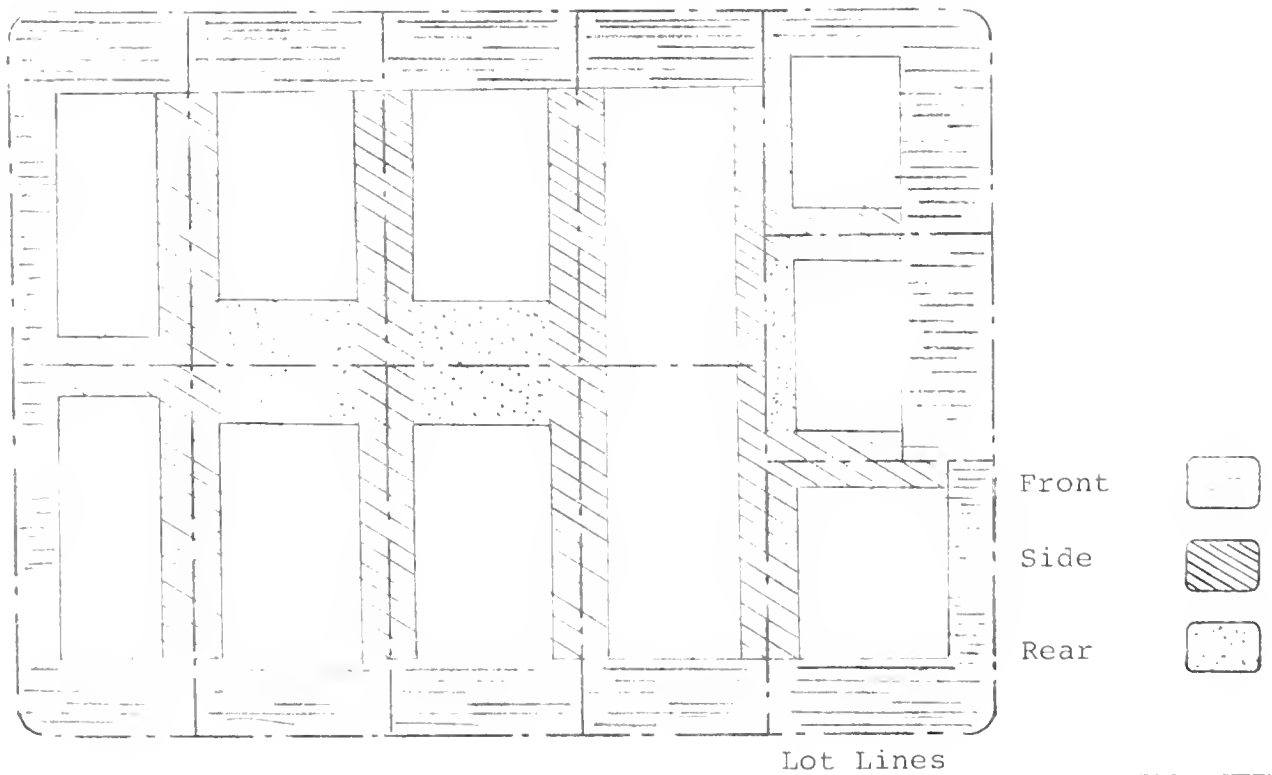


Figure 2
Location of yards on lots

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and billboards.

Travel Trailer: A vehicular, portable unit built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

Travel Trailer Park: Any lot, tract or parcel of land used, maintained or intended to be used for accommodating travel trailers.

Variance: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Yard: A space on the same lot with a principal building, open, unoccupied, and unobstructed by any structure or portion of a structure provided, however, that fences, walls, poles, posts, other customary yard accessories, sidewalks, terraces, and swimming pools may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility in Section 9 of Article IV. See page 7 for illustration of yard types defined below.

Yard, Front: A yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through & corner lots, unless the prevailing front yard pattern on abutting lots indicates otherwise shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on abutting lots.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after front yards have been established shall be considered side yards.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Article III General Requirements

Section 1. Lot Measurement

1. Front yards - Depth of required front yards is measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, will be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines will be parallel.
2. Side yards - Width of a required side yard is measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.
3. Rear yards - Depth of a required rear yard is measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

Section 2. Non-Conforming Lots, Uses and Structures

1. Intent - Within the districts established by this ordinance or amendments that may later be adopted there exist:
 - a) lots,
 - b) structures, and
 - c) uses of land and structures

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. Further, the intent of this ordinance is that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction or preparatory excavation or demolition was lawfully begun prior to the effective date of adoption or amendment of this ordinance.

2. Non-Conforming Lots of Record - In any district the authorized uses may be established on any single lot of record at the effective date of adoption or amendment of this ordinance, even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district and provided that yard dimensions for the district can be met. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combination of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if any of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

3. Non-Conforming Uses of Land and Structures - Where, at the time of passage of this ordinance, a lawful use of land or a structure exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued where it remains otherwise lawful, provided:

a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment of this ordinance;

b) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;

c) If any such non-conforming use ceases for any reasons for a period of more than one year, any subsequent use of such land or structure shall conform to the regulations specified by this ordinance for the district in which such land is located.

d) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land or structures.

4. Non-Conforming Structures - Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

a) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

b) Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 70 per cent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 3. Home Occupations

A home occupation is an occupation conducted as a secondary use in a dwelling unit provided that:

1. No person other than members of the family residing on the premises may be engaged in such occupation.

2. The use of the dwelling unit for the home occupation must be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit may be used in the conduct of the home occupation.

3. There may be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one sign, not exceeding six square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

4. No home occupation may be conducted in any accessory building.

5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes

fluctuations in line voltage off the premises.

7. There shall be no outdoor (unenclosed) storage on the premises of equipment or materials used in connection with a home occupation.

Section 4. Off-Street Parking

1. Purpose - The purpose of the off-street parking requirements is to provide convenient and safe access to property, alleviate hazards associated with access to traffic generating business and industrial uses, provide adequate and safe parking areas for residents and business customers, protect residential uses from the undesirable affects of abutting traffic generating uses and parking areas, and maintain the traffic carrying capacity of the road system serving _____ and the region.

2. Definition - For the purposes of this ordinance, an off-street parking space consists of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

3. When Required

a) No building or structure may be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this ordinance.

b) The provisions of this Section, except where there is a change of use, do not apply to any existing building or structure. Where a change of use involves no additions or enlargements, there shall be provided as many of such spaces as required by this ordinance.

c) Whenever a building or structure constructed after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of housing units, seating capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces must be provided on the basis of the enlargement or change, provided whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of 50 per cent or more in floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure will then and thereafter comply with the full parking requirements set forth herein.

4. Location

a) Residential Districts - Parking spaces accessory to dwellings located in any residential zoning district must be located on the same lot as the dwelling. Such parking spaces may not be located in any front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling must be unobstructed so that no vehicle need be

moved in order to allow another vehicle to enter or exit from the parking area.

b) Business and Industrial Districts - Parking and loading spaces accessory to any business, industrial, or institutional use must be located within 500 feet of the use served, and not on required front yards.

No parking space accessory to any use located in business or industrial districts may be located in any residential district.

In any business or industrial district, off-street parking facilities for different buildings or uses may be provided at a single location if the total number of spaces is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

Further, if parking provided for more than one use at a single location is for uses that have parking demand at different times of the day or different days of the week the number of spaces may be limited to the number required for the use requiring the greatest number of parking spaces.

5. Dimensional requirements - Each required parking space must be at least 10 feet wide and 20 feet long, exclusive of driveways, aisles, and other circulation areas. Aisles within parking lots must be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic must be at least 22 feet wide. One way aisles must be 18 feet wide.

6. Access standards - Parking and loading areas in the business and industrial districts must be designed so that ingress to or egress from a parking or loading space is from an aisle or driveway, not directly from the public right-of-way.

No access way to any parking or loading area may be located within 50 feet of any corner formed by the intersection of the rights-of-way of two or more streets. At intersections where traffic control devices are installed, the Administrator may increase this requirement as necessary to prevent traffic hazards.

The access way to every parking lot must be at least 24 feet wide unless two oneway drives, each 12 feet wide, are provided.

A loading space must have minimum dimensions of not less than 12 feet in width, 50 feet in length, exclusive of driveways, aisles, and other circulation areas, and 15 feet of overhead.

No access drive for a business or industrial use may be located within 200 feet of a residential district or use, an institutional

Use for human care, or fire stations, schools, libraries, churches, parks, playgrounds, or other places of public assembly.

The entrance and exits to all parking areas must be marked as such with permanent markers.

For all business, industrial, and institutional uses, the frontage between access points must be barricaded with wheel stops or other acceptable curbing material.

The distance between access ways in the Highway Business and the Industrial Districts must be not less than 50 feet. The outside point of any access way may be not less than 25 feet from the abutting property line. When road alignment and associated sight distance, road width, abutting topography, existing or potential traffic volume in relation to the road capacity of the public right-of-way warrant an increase in the required distance between access points, the Zoning Administrator may require an increase in such distance.

7. Lighting - Any parking area which is intended to be used during non-daylight hours must be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot must be so arranged as to reflect the light away from the adjoining property.

8. Maintenance - The owner of property used for parking and/or loading must maintain such area in good condition without holes and free of trash and other debris.

9. Number of spaces required - For the purpose of this ordinance the following parking space requirement shall apply:

<u>Type of Use</u>	<u>Parking Spaces Required</u>
Residential	
1. Single family or two family dwelling	Two for each unit
2. Multi-family dwelling	Two for each unit
3. Mobile homes	Two for each mobile home
4. Community residential care facility	One for each two residents
Commercial and Office	
1. Service station	One for each two gasoline pumps and two for each service bay
2. Hotels, motels, tourist homes, and boarding houses	One for each sleeping room plus one space for each two employees
3. Funeral parlors, mortuaries	One for each 100 square feet of floor area in slumber rooms, or parlors

<u>Type of Use</u>	<u>Parking Spaces Required</u>
4. Medical, dental, and veterinary offices	Four spaces for each doctor plus one for each employee
5. Auto repair and body shops	Two for each service bay
6. Motor vehicles, sales, repair, and rental	One space for each 400 square feet of sales, rental, and repair area
7. Banks, financial institutions	One for each 400 square feet of floor area. Drive-in windows must be provided with 4 stacking spaces per window
8. Restaurants, taverns	One for each four seats plus one for each employee
9. Car wash	Three stacking spaces for each wash bay plus one parking space for each employee
10. Drive-in restaurants	One space for each 50 square feet of gross floor area or a minimum of 10 spaces whichever is greater. Drive-in windows must be provided with 5 stacking spaces per window
11. All other retail, service, or business uses permitted in the business districts	One space for each 200 square feet of gross floor area
12. Offices, business, professional and governmental	One space for each 400 square feet of gross floor area
Recreational	
1. Auditoriums	One space for each 4 seats
2. Clubs and Lodges	One space for each 400 square feet of gross floor area
3. Bowling alleys	Four for each alley plus one for each employee
4. Theatre, indoor	One space for each 4 seats plus one for each employee
5. Theatres, drive-in	Eight stacking spaces for each ticket booth
6. Miniature golf	One space for each tee
Institutions	
1. Churches and other places for religious assembly	One for each 4 seats
2. Hospitals	One for each bed
3. Nursing homes	One for each 2 beds
4. Libraries, museums, and art galleries	One for every 400 square feet of floor area
5. Schools, elementary, child care centers, nursery schools	Two for each classroom and one for every 8 in auditoriums or assembly halls

Type of Use

Parking Spaces Required

- | | |
|---|---|
| 6. Schools, secondary | One for every 4 students and one for each teacher and employee |
| 7. Schools, post secondary | One for each 2 students and one for each teacher and employee |
| Industrial | |
| 1. Freight terminals, parcel delivery, and similar uses | One for each employee and one for each vehicle maintained on the premises |
| 2. All types of manufacturing, storage, and wholesale uses permitted in any industrial district | One for every employee (on the largest shift for which the building is designed) plus one for each motor vehicle used in the business |
10. Loading space requirements - One off-street loading space shall be provided for every separate use requiring delivery of goods and having a gross floor area of up to 5,000 square feet. One loading space shall be provided for each additional 10,000 square feet or fraction thereof.

Section 5. Signs

1. Intent - The purpose of this Section is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment and enhance community development.

2. Definitions

a) Sign: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. For the purpose of determining number of signs, a sign will be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element will be considered to be a single sign.

b) Sign, On-Site: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations,

services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business. Permitted on-site signs include wall signs mounted on a building and free standing signs.

c) Sign, Off-Site: A sign other than an on-site sign.

3. Signs permitted in all districts without a permit.

The following signs are permitted in all zoning districts and will not require a permit:

a) Signs advertising the sale, lease, or rental of the premises upon which the sign is located, & do not exceed 12 square feet in area, except in all residential districts where the area of the sign shall not be more than 6 square feet.

b) Signs bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

c) Flags and insignia of any government except when displayed in connection with commercial promotion.

d) Legal notices; identification, information, or directional signs erected or required by governmental bodies.

e) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

f) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

g) Bulletin boards for churches, schools, or other public, religious or educational institution provided such sign is located not less than 10 feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections.

4. Regulations for on-site signs requiring a permit.

All on-site signs permitted as accessory uses in business and industrial districts require a permit and are subject to the following regulations:

a) Projection: Projection of wall signs may not exceed two feet measured from the face of the building. No wall sign may project above the highest point of roof structure of the building to which it is attached.

b) Set back: No on-site free standing sign may be set nearer to the lot line adjacent to a street than the required minimum set back for the principal uses permitted in the district. No sign may be erected or placed closer than 50 feet from a side or rear lot line abutting a residential district.

c) Roof signs: No sign may be placed on the roof of any building.

d) Moving devices: No sign or part thereof may contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices. Such devices, as well as strings

of lights, may not be used for the purpose of advertising or attracting attention.

e) Lighting: Any illuminated sign or lighting device may employ only light emitting a light of constant intensity, and no sign may be illuminated by or contain flashing, intermittent, rotating, or moving lights. In no event may an illuminated sign or lighting device be placed or directed so that the beams and illumination therefrom cause glare or reflection that may constitute a traffic hazard or nuisance. All wiring, fittings and materials used in the construction, connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the state electric code.

f) Height: No free standing sign shall exceed thirty feet in height.

g) Number of signs permitted: In business and industrial districts, each use is permitted one wall sign. In addition, one free standing sign is permitted for each building, regardless of the number of businesses or industrial uses conducted in the building.

h) Permitted surface area: The total surface area of all signs is limited to two square feet of sign for each lineal foot of front width of business or industrial building or business or industrial unit, provided that the maximum total surface area for all signs does not exceed one hundred square feet.

5. Regulation for off-site signs requiring a permit:

a) Set back: No off-site sign may be set nearer to the lot line adjacent to a street than the required minimum set back for the principal uses permitted in the district. No sign may be erected or placed closer than 50 feet from a side or rear lot line abutting a residential district.

b) Lighting: Any illuminated sign or lighting device may employ only light of constant intensity, and no sign may be illuminated by or contain flashing, intermittent, rotating, or moving lights. In no event may an illuminated sign or lighting device be placed or directed so that the beams and illumination therefrom cause glare or reflection that may constitute a traffic hazard or nuisance. All wiring, fitting, materials used in the construction, connection, and operation of electrically illuminated signs shall be accordance with the provisions of the National Electric Code or the local electric code in effect.

c) Area: No off-site sign may exceed 12 square feet in area.

d) Height: No off-site sign shall exceed thirty-five feet in height as measured from either the grade at the sign or the grade of the nearest roadway whichever is higher.

6. Regulations for temporary signs requiring a permit:

Temporary signs may not exceed 50 square feet in area and may be erected for a period of 60 days plus the construction period.

Section 6. Buffers and Screening

Whenever a non-residential use or off-street parking area abut a residential use, the non-residential use must not be less than 40 feet from such property. The use shall be effectively screened at the property line on all sides which adjoin or face the residential district or institutional use by an acceptably designed, sight obscuring wall, fence or planting screen. Such fence, wall, or planting screen shall be not less than four feet nor more than six feet in height and shall be maintained in good condition. When off-street parking is provided within the forty foot buffer area the screen shall be five feet from the property line as required in Article III, Section 3. In the event that terrain or other natural features are such that the erection of such fence, wall, or planting screen will not serve the intended purpose, then no such wall, fence or planting screen shall be required.

Article IV Districts Established and District Regulations

Section 1. Districts established

The following zoning districts are hereby established for the zoning jurisdictional area of the City of _____, Montana. For the interpretation of this ordinance the zoning districts have been formulated to realize the general purposes as set forth in the preamble of this ordinance. The districts shall be named and designated as follows:

<u>DISTRICT</u>	<u>DESIGNATION</u>
General Industrial	GI
Central Business	CB
Highway Business	HB
Low Density Residential	LR
Medium Density Residential	MR
Rural Residential	RR

Section 2. Rules for interpretation of district boundaries.

- a) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- e) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore

line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

f) Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above are so construed. Distances not specifically indicated on the Official Zoning Map are to be determined by the scale of the map.

g) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

Section 3. General Industrial District

1. Purpose - The General Industrial District is established to provide for industries which generally require specially selected locations in the community. These activities require reasonable access to arterial highways, may have extensive open storage and service areas, and generate heavy traffic. The requirements for the district are intended to insure reasonable standards of community safety and acceptability consistent with industrial practices.

2. Permitted principal uses

- Agriculture
- Airports or heliports
- Auto repair and body shops
- Beverage bottling and distributing
- Building equipment and materials, wholesale and retail sales, including storage yards
- Cement products including mixing plants for concrete or paving materials
- Cleaning and dyeing establishments
- Electric equipment, assembly and repair
- Feed and seed sales, wholesale and retail
- Freight terminals, truck or rail
- Grain elevators
- Laboratories (analytical, experimental, testing, research and development)
- Laboratories (industrial processes)
- Manufacturing or processing:
 - (a) Any processing or the manufacturing of any products from any material (including but not limited to animal or vegetable matter, chemicals, glass, metal, minerals, stones, or earth).
 - (b) Fabrication or assembly of products from prestructured materials or compounds.
 - (c) Manufacture of foodstuffs, textiles, electrical components; fabrication of wood, leather, paper, or plastic products.

- Motor vehicles, including mobile homes, travel trailers, agricultural implements or heavy machinery, sale, repair, rental or storage
 - Police or fire stations
 - Quarries or other extractive industries
 - Service stations
 - Signs - off-site
 - Storage yards, bulk material
 - Utilities, public or private
-
- Veterinary offices
 - Welding or sheet metal working
 - Wholesale storage or sales, or storage services

3. Accessory uses permitted - Accommodations for caretakers, watchmen or custodians, off-street parking and loading, on-site signs, outdoor storage of merchandise or inventory usually carried in stock, or other use or structure judged by the Zoning Administrator to be clearly incidental and subordinate to the principal use or structure.

4. Temporary uses permitted - Temporary structures, mobile homes, and storage areas on construction sites; temporary structures on sites of grading operations; temporary signs; the use of open land for meetings, circuses or carnivals, or the sale of Christmas trees, baked goods, or collected clothing or the like, if no permanent structure is erected.

5. Minimum lot size - Where public water supply and sewerage are available and connection approved by the City of _____ there shall be no minimum lot size. Where the lot is subject to the review and approval of the Montana Department of Health and Environmental Sciences, Division of Environmental Sciences, the lot size shall be as approved by that Division. Where no public water supply and sewerage is available and state approval is not required the minimum lot size shall be one acre.

6. Yard requirements

Front yard. A 50 foot front yard must be provided on all frontages.

Side yard. Side yards abutting interior lot lines may be not less than 25 feet.

Rear yard. Depth of rear yard may be not less than 20 feet.

7. Height requirements - There is no height requirement in the industrial district.

8. Parking and loading requirements - Parking and loading facilities must be provided in compliance with the provisions of Article III, Section 3. of this ordinance.
9. Sign requirements - On-site signs as accessory uses, off-site signs as a principal use, and temporary signs must comply with the provisions of Article III, Section 4.
10. Buffers and Screening - Buffers and screening must be provided in compliance with Article III, Section 5.
11. Fencing - The following uses must be shielded by a protective fence not less than six feet in height: (1) outdoor storage of materials or equipment, (2) above ground storage of flammable liquids, gases, or other material, and (3) electrical substations, gas regulator stations, and microwave reflectors.
12. Lighting - Lighting must be so shielded as to cast no direct light upon adjacent property.
13. Conditional uses - The following uses must comply with the additional requirements listed below and secure approval from the Zoning Commission in accordance with the procedures specified in Article V, Section 3.

Use

Conditions

Feed lots, meat packing plants, rendering plants, slaughter houses

1. No portion of a building or other enclosure to be used for retention of animals or processing of animal products may be located less than 300 feet from a residential district or site of an institutional use.
2. No portion of a building or other enclosure to be used for the retention of animals or processing of animal products shall be located upwind from residential or commercial districts in the direction of the prevailing winds.

Use

Conditions

Auto wrecking yards, building material salvage yards, general salvage yards, scrap metal processing yards

1. A solid fence or wall not less than eight feet in height must be erected, or a screen of evergreen shrubs or trees not less than eight feet in height at maturity must be planted, or a combination thereof must be installed, around such yard. Any such fence must be painted, and any fence or shrubs or trees must be maintained in sound condition. No such fence may contain advertising other than lettering which identifies the operation carried on within the enclosure. Such uses existing at the time of the adoption of this Ordinance must be provided with screening, as herein specified, within a period of three years after the date of adoption of this Ordinance.
2. All processing of paper, rags, cloth and other fibers must be conducted in a building.

Quarries or other extractive industries

1. If the operation involves removal of more than 10,000 yards of material, and is otherwise subject to the provisions of The Open Cut Mining Act (Title 82, Ch. 4, Part 4, A.C.M., the permit application must be accompanied by a valid reclamation contract with the Montana Board of Land Commissioners.
2. No excavation may take place nearer than 40 feet to any property line other than the center line of a watercourse, or to any street right-of-way.
3. Any excavation to a depth greater than 5 feet must be fenced. However, no fencing shall be required on any property where such fencing would be impracticable, as determined by the Zoning Administrator by reason of the location of such property on a flood plain.

4. During any period that an extractive operation is temporarily discontinued, the site, along with all structures, machinery, and fencing, must be properly maintained in a safe and orderly manner.
5. Notice of permanent discontinuance of extractive operations must be filed with the Zoning Administrator and must include a plan for reclamation of the site unless such a plan is operational pursuant to the provisions of The Open Cut Mining Act. Except where re-development for another permitted use is in progress on the site of a discontinued extractive industry, the last operator must perform the following within one year:
 - (a) All buildings and equipment must be removed;
 - (b) All waste piles, overburden, and other materials must be graded so that the material assumes its natural angle of repose. These materials must be planted with vegetation so as to prevent erosion;
 - (c) Any quarry walls must be cleared of materials; and
 - (d) any excavation must be so graded as to provide for natural drainage; if the collection of water in an excavation is unavoidable, the area must be fenced.
6. All blasting operations must be conducted between sunrise and sunset. Blasting must be performed in such manner as to protect neighboring properties from flying debris.
7. Whenever an extractive industry would in the course of its operation create a flooding hazard, the operator, before commencing any such excavation,

and at such other times during the excavation as may be necessary, must erect such dikes, barriers, or other structures as will afford the same protection as if no excavation were made. No extractive industry may impede the flow of any watercourse.

8. Notice of intent to temporarily discontinue an extractive operation must be filed with the Zoning Administrator in advance of such temporary discontinuance. Notice of intent to permanently discontinue an extractive operation must be filed with the Zoning Administrator not less than three months in advance. The operator of any extractive industry must file with the Zoning Administrator, in addition to any exhibits required elsewhere in this Ordinance, evidence of ownership or control of property, plans for reclamation, and notices of intent as required herein. The Zoning Administrator will inspect the premises annually to determine that all specified conditions are being met. Violation of the requirements herein will make the operator liable to the penalties set forth in this Ordinance.

Veterinary hospitals

No portion of a building or other enclosure to be used for the retention of animals may be located less than 300 feet from a residential district or site of an institutional use.

Uses

Flammable liquids or gases,
bulk storage, above ground

Conditions

All such uses shall be set back
not less than 300 feet from all
lot lines.

Section 4. Central Business District

1. Purpose - The purpose of the Central Business District is to accommodate and encourage expansion and renewal in the historical core business area of the community. A variety of business, institutional, office, service establishments, and public uses are encouraged in an effort to provide the mix of activities necessary to maintain a downtown character.

2. Permitted principal uses:

- Amusements, commercial, except shooting ranges, racing of manned motor vehicles, outdoor theatres, miniature golf, or other outdoor use.
- Auditoriums
- Clubs and lodges
- Financial institutions
- Funeral parlors
- Hotels, tourist homes and boarding homes
- Medical and dental offices, clinics, and laboratories
- Museums and art galleries
- Nursing homes
- Parking areas
- Police or fire station
- Professional offices
- Public libraries
- Public parks or recreational facilities, except shooting ranges and racing of manned motor vehicles
- Restaurants
- Retail business establishments whose principal activity is conducted within an enclosed building
- Services, including but not limited to barber shops, self-service laundries, repair shops, rental shops, custom fabrication
- Schools, post secondary professional or vocational institutions
- Utilities, public or private except electrical substations, gas regulator stations, and microwave reflectors

3. Accessory uses - On-site wall signs and any other use which the Zoning Administrator determines meets the definition of accessory use, excluding outdoor storage.

4. Temporary uses - Temporary structures, mobile homes, and storage areas on construction sites; temporary structures on sites of grading operations, temporary signs, the use of open land for meetings, circuses, or carnivals or the sale of Christmas trees, baked goods, or collected clothing or the like, if no permanent structure is erected.

5. Minimum lot size - No minimum lot size is required in the Central Business District.

6. Height requirement - No building may be erected or structurally altered to exceed 45 feet in height.

7. Yard requirements:

a) Front - Any building or structure may be set back not less than 10 feet from the curb or street pavement.

b) Side - No side yards are required but any side yard provided adjacent to an interior lot line must be at least 10 feet in width.

c) Rear - Any building or structure must be at least 10 feet from the rear property line.

8. Parking and loading requirements - No off-street parking and loading spaces are required in the Central Business District.

9. Signs - On-site wall signs as accessory uses are permitted in the Central Business District and must comply with the size provisions of Article II, Section 4. All wall signs must be mounted flush with the face of the building and must not project from the building. Free standing on-site signs are not permitted in the District.

10. Buffers and screening - Buffers and screening must be provided in compliance with Article III, Section 5.

Section 5. Highway Business District

1. Purpose - This district is intended to accommodate the business and light industrial uses which require more space than is normally available in the Central Business District and whose operations require access to the major transportation facilities serving the area. It is also the purpose of this district to accommodate such uses while preserving the traffic carrying capacity of the road system, the desirability of abutting land for residential development and the quality of the natural environment to the degree possible.

2. Permitted principal uses:

- All uses permitted in the Central Business District
- Agriculture or farming
- Amusements, commercial including outdoor uses except drive-in theatres, shooting ranges and racing of manned motor vehicles.
- Auto repair and body shops
- Beverage bottling and distributing
- Building equipment and materials, wholesalae and retail sales, including storage yards
- Car washes

- Cleaning and dying establishments
- Electric equipment, assembly and repair
- Feed and seed sales, wholesale and retail
- Hospitals
- Laboratories (analytical, experimental, testing, research, and development)
- Motels
- Motor vehicles, including mobile homes, travel trailers, agricultural implements or heavy machinery, sale, repair, rental or storage
- Outdoor advertising business
- Police or fire stations
- Signs, off-site
- Service stations
- Stadiums, armories, fairgrounds, auditoriums, or meeting halls
- Storage yards, bulk material
- Utilities, public or private
- Veterinary office or hospitals
- Wholesale storage or sales, or storage services

3. Accessory uses - Off-street parking and loading, on-site signs, outdoor storage of merchandise or inventory usually carried in stock, or other use or structure judged by the Zoning Administrator to be clearly incidental and subordinate to the principal use or structure.

4. Temporary uses - Temporary structures, mobile homes, and storage areas on construction sites; temporary structures on sites of grading operations; temporary signs; the use of open land for meetings, circuses or carnivals, or the sale of Christmas trees, baked goods, or collected clothing or the like, if no permanent structure is erected.

5. Minimum lot size - Where public water supply and sewerage are available and connection approved there is no minimum lot size. Where the lot is subject to the review and approval of the Montana Department of Health and Environmental Sciences, Division of Environmental Sciences, the lot size is as approved by that Division. Where the above conditions are not present, the minimum lot size is one acre.

6. Height requirements - No building may be erected or structurally altered to exceed 35 feet in height.

7. Yard requirements:

a) Front - A 50 foot front yard shall be provided on all frontages.

b) Side - Side yards abutting interior lot lines shall be not less than 10 feet.

c) Rear - A rear yard not less than 25 feet in depth shall be provided.

8. Parking and loading requirements - Parking and loading facilities must comply with the provisions of Article III, Section 3. of this Ordinance.
9. Signs - On-site signs as accessory uses, off-site signs permitted as principal uses, and temporary signs must comply with the provisions of Article III, Section 4.
10. Buffers and screening - Buffers and screening must be provided in compliance with Article III, Section 5.
11. Fencing - The following uses must be shielded by a protective fence not less than six feet in height: (1) outdoor storage of materials or equipment, (2) above ground storage of flammable liquids, gases, or other material, and (3) electrical substations, gas regulator stations, and microwave reflectors.
12. Lighting - Lighting must be so shielded as to cast no direct light upon adjacent residential property or an institutional use for human care.
13. Conditional Uses - The following uses must comply with the additional requirements listed below and secure approval from the Zoning Commission in accordance with the procedures specified in Article V, Section 3.

Uses

Drive-in theatres

Conditions

1. The movie screen of every drive-in theatre must be located at least 100 feet from all street right-of-way lines and all lot lines, and at least 500 feet from the boundary of any residential district.
2. Speakers must be limited to the type designed to be heard by the occupants of one car only.
3. Entrances and exits must connect only to major streets, as determined by the Administrator, and must be located no closer than 100 feet to any intersection.
4. The projection surface of motion picture screens must not be visible from any major traffic street.

Uses

Flammable liquids, or gases, bulk storage above ground

Conditions

All such uses must be set back not less than 100 feet from all lot lines.

Section 6. Low Density Residential District

1. Purpose - This district is established to provide for the development of single family and two-family residences within the city limits of _____ at a density compatible with existing residential development and where public water supply and sewerage are available. This district is also intended to accommodate those institutional and public uses compatible with residential neighborhoods.

2. Permitted principal uses:

- Single family residences
- Single family dwelling, modular unit
- Two family residences
- Community residential facilities
- Churches
- Schools
- Libraries
- Museums
- Public parks and recreational facilities
- Utilities, public and private, excluding electrical substations, gas regulating stations, microwave reflectors, and utility associated offices, repair, or storage facilities, landfills and sewage treatment facilities.

3. Accessory uses - Accessory uses permitted in the Low Density Residential District include home occupations in accordance with provisions of Article III, Section 2, on site signs, off-street parking, garages, tool sheds, greenhouses and any other structure which the Zoning Administrator judges to meet the definition of accessory uses. However, no accessory building may be erected in any required yard and no separate accessory building may be erected within five feet of any other building.

4. Temporary use - Temporary structures, storage buildings and storage areas on construction sites; temporary signs; temporary structures on sites of grading operation.

5. Minimum lot size - The minimum area of a _____ lot is 10,000 square feet per dwelling unit where public water supply and sewerage are available and connection approved. Where public services are not available and private services are subject to approval of the Montana Department of Health and Environmental Sciences, the lot size shall be as approved by that Department. Where the lot is not subject to state approval and where public water supply and sewerage are not available, the minimum lot size is one acre.

6. Height requirements - No building or structure in the Low Density Residential District shall be erected or structurally altered to exceed 35 feet in height.

7. Yard requirements - For the purpose of measuring depth of required yards, all protruding portions of buildings or structures shall be considered part of the building or structure.

Front yard - A 25 foot front yard shall be provided on all frontages.

Side yard - Side yards abutting interior lot lines shall be not less than 10 feet.

Rear yard - A rear yard shall be provided not less than 20 feet in depth.

8. Parking - Off-street parking as an accessory use is permitted in accordance with Article III, Section 3 of this Ordinance.

9. Signs - On-site signs as accessory uses are permitted in accordance with the provisions of Article III, Section 4, of this Ordinance.

10. Screening and Buffers - Screening and buffers must be provided in compliance with Article III, Section 5.

11. Lighting - Lighting must be so shielded as to cast no direct light upon adjacent property.

Section 7. Medium Density Residential District

1. Purpose - The Medium Density Residential District is established to accommodate a mix of all residential structures including multi-family and mobile homes within the city limits of where public water supply and sewerage are available. It is also intended that this district be maintained and expanded to preserve the residential attractiveness of the district in a mixed used atmosphere.

2. Permitted principal uses:

- Single family dwelling
- Single family dwellings, modular unit
- Multiple family dwellings
- Nursing homes
- Community residential facilities
- Schools
- Churches
- Libraries
- Museums
- Public parks and recreational facilities
- Funeral homes

- Utilities, public and private, excluding electrical substations, gas regulating stations, microwave reflectors, and utility associated offices, repair, or storage facilities, land fills and sewage treatment facilities.

3. Accessory uses - Accessory uses permitted in the Medium Density Residential District include home occupations in accordance with the provisions of Article III, Section 2, on-site signs, garages, tool sheds, greenhouses, and any other structure which the Zoning Administrator judges to meet the definition of accessory use. However, no accessory building may be erected in any required yard and no separate accessory building may be erected within five feet of any other building.

4. Temporary uses - Temporary structures, storage buildings and storage areas on construction sites; temporary signs; temporary structures on sites of grading operations.

5. Minimum lot size - The minimum area of a zoning lot is 10,000 square feet per dwelling unit where public water supply and sewerage are available and connection approved. Where public services are not available and private services are subject to approval of the Montana Department of Health and Environmental Sciences, the lot size shall be as approved by that Department. Where the lot is not subject to state approval and where public water supply and sewerage are not available, the minimum lot size is one acre.

6. Height requirements - No building or structure in the Medium Density Residential District may be erected or structurally altered to exceed 35 feet in height.

7. Yard requirements - For the purpose of measuring depth of required yards, all protruding portions of buildings or structures are part of the building or structure.

Front yard - A 25 foot front yard shall be provided on all frontages.

Side yard - Side yards abutting interior lot lines shall be not less than 10 feet.

Rear yard - A rear yard shall be provided of not less than 20 feet in depth.

8. Parking - Off-street parking as an accessory use shall be provided in accordance with Article III, Section 3 of this Ordinance.

9. Signs - On-site signs as accessory uses and temporary signs are permitted in accordance with the provisions of Article III, Section 4 of this Ordinance.

10. Screening and Buffers - Screening and buffers must be provided in compliance with Article III, Section 5.

11. Lighting - Lighting shall be so shielded as to cast no direct light upon adjacent property.

12. Conditional uses - The following uses must comply with the

additional requirements listed below and secure approval from the Zoning Commission in accordance with the procedures established in Article V, Section 3.

Uses

Conditions

Mobile homes

1. Each mobile home lot must be provided with anchors and tie downs such as cast-in-place concrete "dead men" eyelets imbedded in a concrete runway, screw augers, arrowhead anchors, or other devices for securing the stability of the mobile home.
2. Each mobile home must be skirted, entirely enclosing the bottom section within sixty days after its placement. Skirtings must be of fire resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home.
3. Each mobile home lot must be provided with an accessory building for storage purposes.

Mobile home parks

Each mobile home park shall provide a community storage building or an accessory storage building on each lot.

Section 8. Rural Residential District

1. Purpose - The Rural Residential District is established to provide for a degree of development of a rural non-farm nature in areas not expected to have public facilities in the near future. These district regulations are also intended to preserve the suitability of the area for agriculture.

2. Permitted principal uses:

- Agriculture
- Single family dwellings
- Single family dwellings, modular units
- Community residential facilities
- Schools
- Churches
- Public parks and recreational facilities

- Golf courses
- Cemeteries
- Fish hatcheries
- Off-site signs in accordance with the provisions of Article III, Section 4
- Libraries
- Nursing homes
- Utilities, public and private

- Private clubs and lodges

3. Accessory uses - Accessory uses permitted in the Rural Residential District include the following:

- Residences and farm buildings accessory to agricultural operations conducted on the premises
- Home occupations in accordance with the provisions of Article III, Section 2
- On-site signs
- Off-street parking
- Garages, tool sheds, and greenhouses

Any other structure which the Zoning Administrator judges to meet the definition of accessory use provided that no accessory building may be erected in any required yard and no separate accessory building may be erected within five feet of any other building.

4. Temporary use - Temporary structures and storage areas on construction sites; temporary structures on sites of grading operations; temporary signs; the use of open land for meetings, circuses or carnivals, or the sale of Christmas trees, baked goods or collected clothing or the like, if no permanent structure is erected.

5. Minimum lot size - Where the lot is subject to the review and approval of the Montana Department of Health and Environmental Sciences, Division of Environmental Sciences, the lot size shall be as approved by that Division. Where the parcel is not subject to such approval, the minimum lot size is one acre.

6. Height requirement - No building or structure in the Rural Residential District may be erected or structurally altered to exceed 35 feet in height.

7. Yard requirement - For the purpose of measuring depth of required yards, all protruding portions of buildings or structures are part of the building or structure.

Front yard - a 40 foot front yard shall be provided on all frontages.

Side yard - Side yards abutting interior lot lines shall not be less than 20 feet.

Rear yard - A rear yard shall be provided not less than 35 feet in depth.

8. Parking - Off-street parking as an accessory use shall be provided in accordance with Article III, Section 3. of this Ordinance.

9. Signs - Off-site signs as principal uses and on-site signs as accessory uses are permitted in accordance with the provisions of Article III, Section 4. of this Ordinance.

10. Screening and buffers - Screening and buffers must be provided in compliance with Article III, Section 5.

11. Lighting - Lighting shall be so shielded as to cast no direct light upon adjacent property.

12. Fencing - Whenever a non-agricultural use abuts an agricultural operation, the non-agricultural use shall be fenced at the property line on all sides which abut the agricultural operation. The following uses must be shielded by a protective fence not less than six feet in height: (1) outdoor storage of materials or equipment, (2) above ground storage of flammable liquids, gases, or other material and (3) electrical substations, gas regulator stations, and microwave reflectors.

13. Conditional uses - The following uses must comply with the additional requirements listed below and secure approval from the Zoning Commission in accordance with the procedures established in Article V, Section 3.

Uses

Conditions

Mobile homes

1. Each mobile home lot must be provided with anchors and tie downs such as cast-in-place concrete "deadmen" eyelets imbedded in a concrete runway, screw augers, arrowhead anchors, or other devices for securing the stability of the mobile home.
2. Each mobile home must be skirted, entirely enclosing the bottom section within sixty days after its placement. Such skirtings must be of fire resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home.
3. Each mobile home lot shall be provided with an accessory building for storage purposes.

Uses

Mobile home parks

Conditions

Each mobile home park shall provide a community storage building or an accessory storage building on each lot.

Section 9. Supplementary District Regulations

1. Purpose - Supplementary district regulations are intended to take care of miscellaneous problems related to uses or conditions which occur in more than one zoning district.

2. Visibility at Intersections in Residential Districts - On a corner lot in any residential district, nothing may be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection.

3. Number of Principal Structures on a Lot - In any district, more than one structure housing a permitted principal conditional use may be erected on a single lot, provided that yard, minimum area, and other requirements of this ordinance are met for each structure as though it were on an individual lot.

4. Exceptions to Height Regulations - The height limitations contained in the District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

5. Structures to Have Access - Every principal building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street other than an alley, and all structures shall be so located on lots as to provide required off-street parking and safe and convenient access for servicing and fire protection.

6. Parking, Storage, or use of Major Recreational Equipment - For purposes of these regulations, the term "major recreational equipment" includes snowmobiles and snowmobile trailers, boats and boat trailers, travel trailers, pick-up camper tops (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment may be parked or stored in any required front or side yard, other than the driveway, provided, however, that such equipment may be parked anywhere on residential premises not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

7. Parking and Storage of Certain Vehicles - No more than one automotive vehicle of any kind or type without current license plates may be parked or stored on any residentially zoned property other than in completely enclosed buildings.

8. Fire Hazards - Any activity involving the use or storage of flammable or explosive materials must be entirely enclosed with protective fencing not less than 6 feet in height and be protected by adequate fire-fighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. The activities must be set back not less than 100 feet from all lot lines.

Section 10. Performance Policies

1. Purpose - The following performance policies are intended to alleviate the undesirable impacts of land use activities on the quality of the natural resources of the _____ zoning jurisdiction. These policies are also intended to reduce or eliminate the impact of objectionable uses on developed areas.

2. Electromagnetic Interference - No activity, use, or process may be conducted which produces electromagnetic interference with radio or television reception in neighboring residential districts.

3. Obnoxious and Toxic Matter - No obnoxious, toxic, corrosive, or radioactive matter, smoke, fumes, or gases may be discharged across the boundaries of any lot in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare or to cause injury or damage to property or business.

4. Noise - Noise emanating from any use may not be of such volume or frequency as to be unreasonably offensive at or beyond the property line. Unreasonably offensive noises due to intermittence, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

5. Erosion - The gradient of any land and its established cover may not be changed so as to cause erosion which carries soil, water or objectionable substances onto neighboring properties in an amount greater than before the grading or use change occurred.

Section 11. Local Plan Approval Pursuant to the Subdivision and Platting Act

An application for a zoning permit for a travel trailer park or a mobile home park must include a copy of the plan approved by the local governing body pursuant to the Subdivision and Platting Act (Title 76, Ch. 3). An application for a zoning permit for a use within an approved subdivision must include a copy of the plat approved by the governing body or evidence that the plat was approved.

Article V Administration and Enforcement

Section 1. Zoning Administrator

A Zoning Administrator designated by the city council shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the city council may direct.

Section 2. Duties of the Zoning Administrator

The Zoning Administrator shall receive applications for zoning permits and conditional use permits, review applications and plans to see that they meet zoning ordinance requirements, issue zoning permits and certificate of zoning compliance, and conditional use permits when approved by the Zoning Commission, inspect premises to see that permit conditions are met and maintain a permanent file of all applications, permits issued with notations of approval conditions, and accompanying plans. Further, if the administrative official finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 3. Zoning Permit Required for Buildings, Changes of Use, Signs, Home Occupations, and Temporary Uses

A Zoning Permit shall be secured from the Zoning Administrator prior to the construction, reconstruction, erection, enlargement, relocation or structural alteration of any building or part thereof,

or of any sign or group of signs having permanent geographical location, and prior to any change of use of any building or land, except that no such permit shall be required for the erection or alteration of a barn or other outbuilding on a bona fide farm. A zoning permit shall also be secured for any home occupation permitted under Article III, Section 2, and for permitted temporary uses.

Section 4. Application for Zoning Permit

All applications for permits other than a permit for a temporary use shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and location on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

One copy of the plans shall be returned to the applicant by the administrative official, after he has marked such copy either as approved or disapproved and attested to the same by placing his signature on such copy. The original of the plans, similarly marked, shall be retained by the administrative official.

Section 5. Certificates of Compliance for Non-Conforming uses

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a certificate of compliance shall have been issued by the administrative official. The Zoning Administrator will identify non-conforming structures and uses and issue certificates of compliance within 6 months following the adoption of this Ordinance. The certificate of compliance shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance.

Section 6. Expiration of Zoning Permit

If the work described in any zoning permit has not begun within one year from the date of issuance thereof, the permit expires and the Zoning Administrator shall give written notice of the expiration to the persons affected. A single one year extension of the permit may be granted by the Zoning Administrator.

A zoning permit for a temporary use other than those associated with construction and grading may be issued by the Zoning Administrator for not more than six months. Zoning permits for temporary uses associated with construction and grading may be issued for one year.

The Zoning Administrator may issue one extension of a temporary use permit for a period not exceeding the permitted maximum time period of the original permit.

Section 7. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Compliance

Zoning permits or certificates of compliance issued on the basis of plans and applications approved by the administrative officer or the zoning commission authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized is a violation of this Ordinance and punishable as provided by Section 17 of this Article.

Section 8. Zoning Commission Administrative Responsibilities & Procedures

The Zoning Commission established by the City Council of _____ shall have the following duties in the administration of this Ordinance.

1. Review and approve conditional uses. A permit for a conditional use will not be approved by the Zoning Commission unless and until:

a) An accurate and complete written application for a conditional use is submitted to the Zoning Commission through the Zoning Administrator. All applications for conditional use permits must be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; the location and dimensions of the proposed building or alteration; and information which clearly states how the conditions for the use must be met. The application must include such other information as may lawfully be required by the administrative official, including descriptions of and proposed buildings or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

One copy of the plans must be returned to the applicant by the administrative official, after he has marked it as either approved or disapproved and signed it. The original _____ of the plans, similarly marked, shall be retained by the administrative official.

b) Notice shall be given at least 15 days in advance of public hearing before the Zoning Commission. The owner of the property for which a conditional use is sought or his agent shall be notified of the hearing by mail. Notice of such hearings shall be conspicuously

posted on the property for which the conditional use is sought, at the County Courthouse, at the City Hall, and in a newspaper of general circulation within the zoning jurisdiction at least 15 days prior to the public hearing.

c) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

d) The Zoning Commission shall make a written finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the character of the zoning district.

e) Before any conditional use is approved, the Board shall make written findings certifying compliance with the specific conditions governing the use.

2. Review and recommend proposals for the amendment of this Ordinance and the official zoning map under the provisions of Section 10 of this Article.

Section 9. Board of Adjustment Establishment and Procedures

1. Board of Adjustment established - A Board of Adjustment is hereby established, which shall consist of five members to be appointed by the City Council, each for a term of three years. The City Council shall request recommendations for two memberships on the Board of Adjustment from the County Commissioners. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected.

2. Proceedings of the Board of Adjustment - The Board of Adjustment shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

3. Hearing; Appeals; Notice - Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided

by the rules of the Board, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

4. Stay of Proceedings - An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

Section 10. Board of Adjustment Powers, Duties, and Procedures

1. Administrative Review - To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this Ordinance.

2. Variances, Conditions Governing Applications; Procedures - To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

a) A written application for a variance is submitted demonstrating:

1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

2) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

3) That the special conditions and circumstances do not result from the action of the applicant;

4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

Neither the non-conforming use of neighboring lands, structures, or buildings in the same district, nor the permitted or non-conforming use of lands, structures, or buildings in other districts are grounds for the issuance of a variance.

b) Notice shall be given at least 15 days in advance of public hearing. The owner of the property for which variance is sought or his agent shall be notified of the hearing by mail. Notice of such hearing shall be conspicuously posted on the property for which variance is sought, at the County Courthouse, in the City Hall, and in a newspaper of general circulation within the zoning jurisdiction at least 15 days prior to the public hearing.

c) The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

d) Before granting a variance the Board of Adjustment shall make findings that the requirements of Section 10(2)(a) have been met by the applicant.

e) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

f) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 17 of this Article.

Under no circumstances may the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

3. Board Has Powers of Administrative Official on Appeals, Reversing Decision of Administrative Officials - In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

The concurring vote of four members of the Board is necessary to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance,

or to effect any variation in the application of this Ordinance.

Section 11. Appeals From the Board of Adjustment

1. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board.

2. Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

3. The Board of Adjustment need not return the original papers acted upon by it, but may return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

4. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which constitutes a part of the proceedings upon which the determination of the court will be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

5. Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

Section 12. Duties of Zoning Administrator, Board of Adjustment, Governing Body and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement be first presented to the zoning administrator, and that such questions be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the Board of Adjustment be to the courts as provided by law.

It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions is as stated in this section and this Ordinance. Under this Ordinance the City Council has the duties (1) of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law, and (2) of establishing a schedule of fees and charges as stated in section 13, below.

Section 13. Schedule of Fees, Charges, and Expenses

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the zoning administrator, and may be altered or amended only by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action may be taken on any application or appeal.

Section 14. Amendments

1. Who may initiate - Proposals to amend, supplement, change, modify or repeal any of the regulations or the district boundaries established by this Ordinance or hereafter established, may be initiated by the City Council, the City Zoning Commission, the County Commissioners, the County Planning Board, or by petition of any interested person. A petition by an interested person (which term shall include a partnership and a corporation) to amend or change the regulations or district boundaries shall be submitted to the City Council through and reviewed by the Zoning Commission, which shall consider its merit and make a recommendation to the City Council.
2. Amendment Petition Applications and Procedure - Amendment petition applications shall be kept on file in the office of the Zoning Administrator. Complete and accurate petitions shall be considered by the Zoning Commission at its next regular monthly meeting, provided they have been filed, complete in form and content, at least 24 calendar days before the regularly scheduled meeting of the Zoning Commission; otherwise consideration may be deferred until the following monthly meeting. The Zoning Commission shall forward its recommendation on an amendment proposal to the City Council not more than five days following the meeting at which a recommendation was adopted. The City Council shall take action on the proposal and recommendation within thirty days following their receipt of the Zoning Commission recommendation.
3. Submission Requirements for Map Amendments - In addition to an accurate and completed amendment application any petition to amend a zoning classification shall include a current map drawn to scale

showing all parcels of land included in the petition and the name of the owner of each parcel certified by the Tax Assessor of _____ County from the records in his office.

A legal description of the property as to which rezoning is requested shall be included in such petition.

4. Public Hearings Required - No action to amend, supplement, change, or repeal this Ordinance may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. If the petition is for amendment to the zoning map notice of such hearing shall be mailed to all owners of property included in the petition and shall also be conspicuously posted on the property for which an amendment is sought, at the County Courthouse, and at the City Hall. Public hearing requirements apply to the Zoning Commission meeting to consider a recommendation and to the City Council meeting for the purpose of acting on the proposal.

When a proposed amendment affects the zoning classification of property and a protest against such change is signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 50 feet therefrom, or of those directly opposite thereto extending 50 feet from the street frontage of such opposite lots, then such amendments may not become effective except by the favorable vote of three-fourths of the City Council.

Section 15. Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

Section 16. Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the zoning administrator. He shall properly record such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

Section 17. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply

with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitutes a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues is a separate offense.

• The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains
• such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing contained herein prevents the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 18. Separability Clause

Should any section or provision of this Ordinance is declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be unconstitutional or invalid.

APPENDIX I

State Permits Required

A number of uses which will require local zoning permits also require permits or licenses from the State of Montana. A state permit requirement does not usurp the right of the local government to require a zoning permit. Where there are duplicate standards the most stringent will apply.

Below is a list of state statutes and administering agencies which will most often affect uses seeking local zoning permits. It is included here as informational so that the Zoning Administrator and the public can be aware of the scope of permit requirements. The "Environmental Permit Directory" published by the Environmental Quality Council, Helena, Montana 59601, will provide a complete listing.

1. Statute citations for permits issued by the Department of Health and Environmental Sciences.

- a) The Montana Solid Waste Management Act (Title 75, Ch. 10, Part 2)
- b) The Clean Air Act of Montana (Title 75, Ch. 2)
- c) Water Pollution Control Act (Title 75, Ch. 5)
- d) Tourist Campgrounds and Trailer Courts (Title 50, Ch. 52)
- e) Sanitation in Subdivision Act (Title 76, Ch. 4, Part 1)
- f) Motor Vehicle Wrecking Facilities (Title 75, Ch. 10, Part 5)

2. Statute citations for permits issued by the Department of Highways.

- a) Junkyards Along Roads (Title 75, Ch. 15, Part 2)
- b) Outdoor Advertising Act (Title 75, Ch. 15, Part 1)

APPENDIX II

Sample Forms for Zoning Administration

	<u>Page</u>
A Certificate of Compliance for Non-Conforming Uses and Structures	50
Application for Appeal to Board of Adjustment	52
Application for Conditional Use Zoning Permit	54
Application for Variance From Board of Adjustment	56
Application for Zoning Amendment	57
Application for Zoning Permit	60
Application for Zoning Permit for a Home Occupation	62

A CERTIFICATE OF COMPLIANCE FOR NON-CONFORMING
USES AND STRUCTURES
_____, Montana

Certificate No. _____

1. Locational Description: Subdivision Name _____
Section _____ Township _____ Range _____
Block _____ Lot No. _____
(If not located in platted subdivision attach a legal description)
Address _____
2. Name of Owner _____
Mailing Address _____
Phone Number Home _____ Business _____
3. Property Presently Zoned As _____
4. Existing Use; Name and Describe
Business _____ Industry _____
Residence _____
Accessory Building(s) _____
Sign _____ Size _____
Residence _____ No. of Units _____
Other Uses _____

5. Building Heights: Stories _____ Feet _____
Front _____ Rear _____
6. Yard Dimensions: One Side _____ Sum of Side Yards _____

7. Number of Off-Street Parking Spaces _____
8. Number of Off-Street Loading Berths _____

9. Other conditions which make the use or structure non-conforming:

Signature _____ Date _____

(For Official Use Only)

Date Received _____ Fee Paid _____

Date of Action _____

Description of Action _____

Zoning Administrator

APPLICATION FOR APPEAL TO
BOARD OF ADJUSTMENT
_____, Montana

Application No. _____

Name of Applicant _____

Mailing Address _____

Phone Number Home _____ Business _____

The undersigned requests review of the decision by the zoning inspector of Application for Zoning Permit No. _____, denied on _____, 19_____. It is the applicant's contention that the following error was made in the determination of the zoning administrator: _____

Appellant

For Official Use Only

Date Filed _____

Date of Notice to Parties in Interest _____

Date of Notice in Newspaper _____

Date of Public Hearing _____

Fee Paid \$ _____

Decision of Board of Zoning Appeals: Approved _____ Denied _____

If Approved the following conditions and safeguards were prescribed:

1. _____
2. _____
3. _____

4. _____
5. _____
6. _____

If Denied, reason for denial _____

Date _____ Board of Adjustment Chairman _____

Note: One (1) copy to be filed with the Zoning Administrator and two (2) with the Board of Adjustment.

APPLICATION FOR CONDITIONAL USE
ZONING PERMIT

_____, Montana

Application No. _____

The undersigned requests a conditional use permit for the use specified below. Should this application be approved, it is understood that it shall only authorize that particular use described in this application and any conditions or safeguards required by the Board.

1. Name of Applicant _____

Mailing Address _____

Phone Number Home _____ Business _____

2. Locational Description: Subdivision Name _____

Section _____ Township _____ Range _____

Block _____ Lot No. _____

Address _____

(If not in a platted subdivision attach a legal description)

3. Existing Use _____

4. Property Presently Zoned As _____

5. Description of Conditional Use _____

6. Supporting Information: Plans in triplicate and drawn to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, any natural or topographic peculiarities of the lot in question, and the location and other characteristics of the use that can be displayed graphically. A narrative description of how the conditions will be met must be included with the plans and the application form.

Date _____
_____ Applicant

For Official Use Only

Date Filed _____
Date of Notice to Parties in Interest _____
Date of Public Hearing _____

Fee Paid \$ _____

Decision of Zoning Commission: Approved _____ Denied _____

If approved the following conditions and safeguards were prescribed:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

If Denied, reason for denial _____

Date _____

Zoning Commissions

Chairman

Note: One (1) copy to be filed with the Zoning Administrator and
two (2) with the Zoning Commission.

APPLICATION FOR VARIANCE
FROM BOARD OF ADJUSTMENT
_____, Montana

Application No. _____

Name of Applicant _____

Mailing Address _____

Phone Number Home _____ Business _____

1. Locational Description: Street and Number _____
(If not in a platted subdivision attach a legal description)
2. Nature of Variance: Describe generally the nature of the variance

In addition, plans in triplicate and drawn to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

3. Justification of Variance: The applicant must prove to the Board of Adjustment that the following items are true: (please attach these comments on a separate sheet)
 - a. that special conditions exist peculiar to the land or building in question
 - b. that a literal interpretation of the ordinance would deprive the applicant of rights enjoyed by other property owners
 - c. that the special conditions do not result from previous actions of the applicant
 - d. that the requested variance is the minimum variance that will allow a reasonable use of the land or buildings.

I certify that the information contained in this application and its supplements is true and correct.

Date _____

Applicant

APPLICATION FOR ZONING AMENDMENT

_____, Montana

Application No. _____

The undersigned, owner(s) of the following legally described property hereby request the consideration of change in zoning district classification as specified below:

1. Name of Applicant _____

2. Mailing Address _____

Phone Number Home _____ Business _____

3. Locational Description: Subdivision Name _____

Section _____ Township _____ Range _____

Block _____ Lot No. _____

(If not located in a political subdivision attach legal description)

3. Existing Use _____

4. Present Zoning District _____

5. Present Language, if text amendment is proposed _____

6. Proposed Zoning District _____

7. Proposed Language, if text amendment _____

8. Supporting Information: Attach the following items to the application:

- a. A vicinity map showing property lines, streets, and existing and proposed zoning, if map amendment is proposed.
- b. A list of all property owners within, contiguous to, and directly across the street from the proposed rezoning, if map amendment is proposed.
- c. A statement of how the proposed rezoning will fulfill the purposes of the Preamble of the Zoning Ordinance.

Date _____ Applicant _____

For Official Use Only
(Zoning Commission)

_____ Zoning Commission

Date Filed _____

Date of Notice in Newspaper _____

Date of Notice of Adjacent Property Owner _____

Date of Public Hearing _____

Fee Paid \$ _____

Recommendation of Zoning Commission: Approval _____ Denial _____

Reason for Recommendation _____

Zoning Commission

Date _____
Chairman _____

For Official Use Only
(Legislative Authority)

Date of Recommendation Received _____

Date of Notice in Newspaper _____

Date of Public Hearing _____

Action by Legislative Authority Approval _____ Denial _____

If Denied, reason for denial _____

ate _____ Clerk _____

Note: Three copies of this form and supporting information must
be filed with the _____ Zoning Commission.

APPLICATION FOR ZONING PERMIT
_____, Montana

Application No. _____

The undersigned applies for a zoning permit for the following use, said permit to be issued on the basis of the information contained within this application. The applicant hereby certifies that all information and attachments to this application are true and correct. The applicant is required, in addition to the information requested on this form to submit plans, in triplicate and drawn to scale, showing the actual dimensions and shape of the lot, exact sizes and locations of existing buildings on the lot, and the location and dimensions of the proposed land uses including buildings, alterations, signs, off-street parking and loading facilities, and any required screening and buffer areas.

1. Street _____
Block _____ Lot No. _____
(If not located in platted subdivision attach a legal description)
2. Name of Owner _____
Mailing Address _____
Phone Number Home _____ Business _____
3. Existing Use _____
4. Property Presently Zoned As _____
5. Proposed Use
New Construction _____ Business _____
Remodeling _____ Industry _____
Other Use _____
Number and Type of Accessory Buildings _____
Signs _____ Number _____ Type _____ Size of Each _____
Total Size _____
Residence _____ Housing type (single family,
duplex, etc.) _____

1. Multi-family, Number of Units _____

If Mobile Home, Date of Construction _____

(If proposed use is business or industry enclose a detailed description of the nature of the business or industry)

6. Type of Sewage Disposal _____

7. Lot Width _____ Lot Depth _____ Lot Area _____

8. Building Heights: Stories _____ Feet _____

9. Yard Dimensions: Front _____ Rear _____

10. Number of Off-Street Parking Spaces to be Provided _____

11. Number of Off-Street Loading Berths to be Provided _____

12. On a separate sheet attach a list of other supplemental requirements or conditions that will be met, or explain any points you feel need clarification.

Note: This permit shall be void if work is not started within one year.

Signature _____ Date _____

(For Official Use Only)

Date Received _____ Fee Paid _____

Date of Action on Application _____ Approved _____

Denied _____

If application denied, reason for denial _____

Zoning Administrator

APPLICATION FOR ZONING PERMIT
FOR A HOME OCCUPATION
_____, Montana

Application No. _____

The undersigned applies for a zoning permit for the following use, said permit to be issued on the basis of the information contained within this application. The applicant hereby certifies that all information and attachments to this application are true and correct. The applicant is required, in addition to the information requested on this form to submit plans, in triplicate and drawn to scale, showing the actual dimensions and shape of the lot, exact sizes and locations of existing buildings on the lot, and the location and dimensions of the proposed buildings or alterations.

1. Locational Description: Subdivision Name _____
Section _____ Township _____ Lot No. _____
Block _____ Lot No. _____
(If not located in platted subdivision attach a legal description)
2. Name of Owner _____
Mailing Address _____
Phone Number Home _____ Business _____
3. Existing Use _____
4. Property Presently Zoned As _____
5. Proposed Home Occupation:
Description _____
No. of people engaged in home occupation _____
Type of equipment used _____
Storage facilities _____
6. Square Feet of Floor Area _____ sq. ft.
7. Square Feet of Floor Area to be Used for Home Occupation _____
_____ sq. ft.

Note: This permit shall be void if the home occupation is not started within 90 days.

Signature _____ Date _____

(For Official Use Only)

Date Received _____ Fee Paid _____

Date of Action on Application _____ Approved _____

Denied _____

If application denied, reason for denial _____

Zoning Administrator

